



OFFICE OF THE POLICE COMMISSIONER  
ONE POLICE PLAZA • ROOM 1400

March 4, 2022

Memorandum for: Deputy Commissioner, Trials

Re: **Police Officer Christopher Campbell**  
Tax Registry No. 934569  
Employee Resources Section  
Disciplinary Case No. 2021-23052

The above named member of the service appeared before Assistant Deputy Commissioner Josh Kleiman on November 4 and 5, 2021 and was charged with the following:

**DISCIPLINARY CASE NO. 2021-23052**

1. Said Police Officer Christopher Campbell, while off-duty and assigned to the 40th Precinct, on or about September 13, 2019, did wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by committing an act which constitutes an unauthorized exercise of his official functions, to obtain a benefit or deprive another person of a benefit, to wit: said Police Officer Campbell did use his status as a police officer to dissuade an individual known to the Department from calling the police after an off-duty incident.

**Penal Law Section 195.00 (1)  
P.G. 203-10, Page 1, Paragraph 5**

**OFFICIAL MISCONDUCT  
PUBLIC CONTACT –  
PROHIBITED CONDUCT**

2. Said Police Officer Christopher Campbell, while off-duty and assigned to the 40th Precinct, on or about September 13, 2019, did fail to request the response of a patrol supervisor after an off-duty incident.

**P.G. 212-32, Page 1, Paragraph 1**

**OFF DUTY INCIDENTS  
INVOLVING UNIFORMED  
MEMBERS OF THE SERVICE**

3. Said Police Officer Christopher Campbell, while assigned to the Employee Relations Section, on or about February 3, 2021, did make misleading statements to investigators during his hearing pursuant to P.G. 203-13.

**P.G. 203-08**

**FALSE OR MISLEADING  
STATEMENTS**

4. Said Police Officer Christopher Campbell, while assigned to the Employee Relations Section, on or about February 3, 2021, did make false statements to investigators during his hearing pursuant to P.G. 203-13.

**P.G. 203-08**

**FALSE OR MISLEADING  
STATEMENTS**

5. Said Police Officer Christopher Campbell, while off-duty and assigned to the 40th Precinct, on or about and between September 14, 2019 and September 16, 2019, wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department, to wit: said Police Officer Campbell utilized his Department parking plaque on his personal vehicle, which did not have a current inspection certificate and was parked in front of a fire hydrant, outside of his command's self-enforcement zone.

**P.G. 203-10, Page 1, Paragraph 5**

**PUBLIC CONTACT –  
PROHIBITED CONDUCT**

**P.G. 219-29, Pages 6-7, Additional Data**

**DISTRIBUTION AND USE OF  
NYPD RESTRICTED PARKING  
PERMITS**

In a Memorandum dated January 4, 2021, Assistant Deputy Commissioner Josh Kleiman found Police Officer Campbell guilty of all Specifications, after Police Officer Campbell pled guilty to Specification Nos. 2 and 5 and was found guilty of Specification Nos. 1, 3 and 4 in Disciplinary Case No. 2021-23052. Having read the Memorandum and analyzed the facts of this matter, I approve of the findings, but disapprove the penalty.

I have considered the totality of the circumstances and issues concerning the misconduct for which Police Officer Campbell has been found guilty, and deem that separation from the Department is warranted. However, in consideration of Police Officer Campbell's otherwise unblemished lengthy service record with the Department, instead of an outright dismissal from the Department, I will permit an alternative manner of separation from the Department for Police Officer Campbell at this time.

It is therefore directed that, in lieu of dismissal, an *immediate* post-trial settlement agreement be implemented with Police Officer Campbell in which he shall forfeit thirty (30) suspension days without pay (to be served), forfeit thirty (30) suspension days without pay (already served), be placed on one (1) year dismissal probation, forfeit all time and leave balances, and immediately file for vested-interest retirement.

POLICE OFFICER CHRISTOPHER CAMPBELL

DISCIPLINARY CASE NO. 2021-23052

Such vested-interest retirement shall also include Police Officer Campbell's written agreement to not initiate administrative applications or judicial proceedings against the New York City Police Department to seek reinstatement or return to the Department.

If Police Officer Campbell does not agree to the terms of this vested-interest retirement agreement as noted, this Office is to be notified without delay. This agreement is to be implemented ***IMMEDIATELY***.

A handwritten signature in black ink, appearing to read 'K. Sewell', is positioned above the printed name of the Police Commissioner.

Keechant L. Sewell  
Police Commissioner



POLICE DEPARTMENT

January 4, 2021

-----X  
In the Matter of the Charges and Specifications :

- against - :

Police Officer Christopher Campbell :

Tax Registry No. 934569 :

Employee Resources Section :

Case No.

2021-23052

-----X  
At: Police Headquarters  
One Police Plaza  
New York, NY 10038

Before: Honorable Josh Kleiman  
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department:

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Christine McGrath, Esq.  
Department Advocate's Office  
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For the Respondent:

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To:

HONORABLE KEECHANT SEWELL  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NY 10038

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## CHARGES AND SPECIFICATIONS

1. Said Police Officer Christopher Campbell, while off-duty and assigned to the 40th Precinct, on or about September 13, 2019, did wrongfully engaged in conduct prejudicial to the good order, efficiency or discipline of the Department by committing an act which constitutes an unauthorized exercise of his official functions, to obtain a benefit or deprive another person of a benefit, to wit: said Police Officer Campbell did use his status as a police officer to dissuade an individual known to the Department from calling the police after an off-duty incident.

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PROHIBITED CONDUCT  
DISTRIBUTION AND USE OF  
NYPD RESTRICTED PARKING  
PERMITS

## REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on November 4 and 5, 2021. Respondent, through his counsel, entered a plea of Guilty to Specifications 2 and 5,<sup>1</sup> and pled Not Guilty to Specifications 1, 3, and 4. The Department called Delio Acosta-Pichardo, Victor Valdez, Maria Reyes, and Lieutenant Philip Sena as witnesses. Respondent called Lieutenant Derrick Bradley, Lieutenant Lauren Diaz, and Captain Isaac Soberal as witnesses, and testified on his own behalf. A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, the Tribunal finds Respondent Guilty of each of the charged specifications. It is recommended that Respondent be DISMISSED from the New York City Police Department.

## ANALYSIS

It is uncontested that on September 13, 2019, after ending their tours of duty at the 40<sup>th</sup> Precinct, Respondent and then-Police Officer [REDACTED] Si Smith,<sup>2</sup> who were close friends, joined each other to admire Smith's new car, a white Subaru WRX, and to grab food and drinks at a nearby tavern. Approximately four hours into their time together, Smith received a call from his sister concerning a personal medical matter. Smith asked Respondent to go see his sister with him. They drove in Smith's car to her address in the Bronx.

On arrival, Smith parked his vehicle two houses away from his sister's residence. They walked to Smith's sister home and met her outside. A white Acura was idling in a driveway adjacent to them. After approximately, two minutes at the location, Smith went to check on

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<sup>1</sup> Respondent pled Guilty to these two specifications at trial on November 4, 2021. (Tr. 6-7, 252-54)

<sup>2</sup> Former Police Officer Smith retired after receiving charges and specifications in connection with the instant disciplinary matter.



his car. Upon his return thirty seconds later, [Smith] observed a man enter the driver's side door of the white Acura.

With speed, and without warning, [Smith] rushed towards the driver, grabbed him by the neck, and attempting to forcibly remove him from the vehicle, stating "get out of my car," "give me my car." Respondent noticed the altercation, approached [Smith] and moved to restrain him. [Smith] used his right hand to remove an object from his waistband. Respondent immediately grabbed [Smith's] right arm and directed his right hand skyward. After approximately ten seconds, Respondent released him and [Smith] walked away. As he walked away, surveillance video depicted a gun-shaped black object in his hands.

Also not in dispute is that Respondent stayed behind and engaged in a conversation with the driver of the white Acura, reporting that he was a police officer and displaying his shield. Without reporting the incident to the Department, Respondent left the scene. A female occupant of the white vehicle called 911 to report the incident, reporting that a man tried to remove her husband from their vehicle and punch him. She reported that others observed a gun and that another man who was present identified himself as a police officer.

Respondent admits that following the incident he met up with [Smith] and they went to a "chicken spot" to eat. Respondent claimed that he did not ask [Smith] to explain what had occurred. Months later, [Smith] showed Respondent a video from the scene. Respondent reported that while viewing the video footage, [Smith] claimed that the object he was holding may have been a cellphone. Respondent replied, "You can't tell what's in your hand."

Seventeen months later, Respondent was interviewed by Department investigators. He told investigators that he did not observe [Smith] with a gun and did not attempt to dissuade any individuals from calling 911. He initially stated that he did not go to any food establishment with

**Smith** prior to traveling to **Smith's** sister's residence, but, after being shown a receipt, admitted visiting the tavern. Despite the receipt depicting the purchase of two beers and six shots of bourbon, Respondent denied that he consumed any alcoholic beverages and claimed that he did not observe **Smith** consume any alcohol either. When presented with video evidence, Respondent claimed it was the first time he was seeing it. After later admitting that **Smith** had shown him a "video clip," Respondent denied that **Smith** commented on the video as they watched it.

At issue is whether Respondent knew that **Smith** had displayed a firearm, whether Respondent used his status as a police officer to dissuade one or more civilians from calling 911, and whether Respondent made false and misleading statements at his February 2021 official Department interview.

#### *Testimony of the Vehicle Occupants*

Mr. Victor Valdez testified, via a Spanish interpreter, that on September 13, 2019, at approximately 9:40 p.m., he and his coworker, Mr. Delio Acosta-Pichardo, left work at a UPS facility and travelled to his Bronx apartment to drop off a bag of food, pick up clothing, and pick up his children's mother, Ms. Maria Reyes, to transport her to her apartment. When they arrived, he parked his car, a white 2012 Acura TLX, in the driveway adjacent to the residence and called Ms. Reyes. While Mr. Valdez and Mr. Acosta-Pichardo went into the home, Ms. Reyes came outside to wait with the vehicle, sitting in the front passenger seat. (Tr. 59-65, 85-86)

When they returned to the car approximately 15 minutes later, Mr. Valdez opened the door to the driver's seat. As he entered the car, a man, later determined to be **Smith** grabbed him by the neck, attempted to pull him out of the vehicle, and repeatedly said, "Give me the fucking car." **Smith's** companion, later identified as Respondent, grabbed **Smith's** wrist,



and said, "Give me the fucking gun." **Smith** replied, "This is my fucking gun. I'm not going to give it to you." Respondent told **Smith** to leave. As **Smith** walked away, Mr. Valdez observed him "carrying something that looked like a gun." Ms. Reyes also told him that **Smith** had a gun. (Tr. 65-67, 70-71, 86, 90)

Mr. Valdez proceeded to get out of the car and instruct Ms. Reyes to call the police. He engaged in a conversation with Respondent wherein he told Respondent three times that he wanted to call the police. Respondent told them that he was a police officer and attempted to show Mr. Valdez a silver object that may have been a shield. Respondent said, "You're not supposed to call the police. I am the police. I saved your life." Mr. Valdez asked Respondent, "If you're the police, you saw what happened here, [] why are you covering up for him?" Mr. Valdez stated that he could "smell alcohol" and "since there seems to be a gun involved" he decided not to press it. As Respondent was leaving, he told a woman and her son who were at the door to their house to go inside, lock the door, and not to speak to the police; Mr. Valdez did not know this woman. (Tr. 71-75, 91, 94)

Mr. Delio Acosta-Pichardo testified, via a Spanish interpreter, that on September 13, 2019, at approximately 9:40 p.m., he travelled with Mr. Victor Valdez to pick up a bag of clothing from Mr. Valdez's house in the Bronx, as they planned to travel to Pennsylvania. When they arrived at the home, Mr. Valdez parked his vehicle in the driveway. While they were inside, Ms. Maria Reyes entered the vehicle and sat in the front passenger seat. When they returned to the vehicle, Mr. Acosta-Pichardo opened the door to the rear passenger side of the car, and was about to enter the vehicle, when an individual, later determined to be **Smith** grabbed Mr. Valdez by the neck, while screaming, "Give me my car. Give me my damn car." Mr. Acosta-Pichardo started laughing because he thought that **Smith** was joking. A second

individual, later determined to be Respondent, approached, grabbed **Smith** and said, "Give me the gun. Give me the gun." **Smith** who had his arm placed around Mr. Valdez's neck, responded, "No, this is my gun. This is my gun." Respondent replied, "No, give me the damn gun," and grabbed **Smith** by the wrist. Mr. Acosta-Pichardo observed **Smith** holding "something like black and square" and felt scared and hid. (Tr. 17, 19-24, 26-27, 29, 31-32, 41)

Mr. Acosta-Pichardo testified, "I can't say that I saw a gun. I just related it, because I saw like a black square, and [Respondent] was saying, 'Give me the gun.'" Mr. Acosta-Pichardo also testified that he assumed the object was a gun based on the way Respondent was holding **Smith** and that he used the word "gun." Respondent then told the individual to leave, and the individual left. (Tr. 32, 44, 56-57)

Mr. Acosta-Pichardo further testified that Respondent stayed at the location and spoke with them for approximately ten minutes. During that time, Mr. Acosta-Pichardo wanted to call police. Respondent said, "No, you're not going to call the police. I am the police." They told Respondent that they had to call the police since he allowed **Smith** to leave with a weapon. Respondent replied, "I saved your life. You don't have to call the police." Mr. Acosta-Pichardo recalled that Respondent took a shield out of his pocket and quickly displayed it to demonstrate that he was a police officer. (Tr. 32-34)

Mr. Acosta-Pichardo explained that he insisted on calling the police and instructed Ms. Reyes to make the call. Respondent told Ms. Reyes to go inside and not to talk to anyone. He also told them that they did not have to go to court, even though that they had not mentioned going to court. (Tr. 33-34, 46-47)

According to Mr. Acosta-Pichardo, Ms. Reyes proceeded to call 911 twice. The first 911 call was made approximately five minutes after Respondent left the scene, and the second 911



call was placed approximately 30 to 45 minutes later since police had not yet responded. (Tr. 34, 47-48)

Ms. Maria Reyes testified that on September 13, 2019, at approximately 9:40 p.m., she was at her apartment when Mr. Valdez called to inform her that he had parked the car out front. He asked her to come downstairs to wait in the car. She went to the vehicle and sat in the front passenger seat. After Mr. Valdez exited the apartment, he opened the door to the vehicle and sat inside. Ms. Reyes, who was seated next to Mr. Valdez in the passenger side of the car, then turned to look at Mr. Valdez and observed a struggle, involving someone grabbing Mr. Valdez by the neck. (Tr. 98-100)

She screamed, quickly exited the vehicle, and observed an individual, later determined to be **Smith** with a small, black weapon next to Mr. Valdez. Ms. Reyes was unsure as to the type of weapon, but the way he was holding it made her believe it was a weapon. **Smith** repeatedly yelled, "Give me the fucking car." Ms. Reyes quickly retreated backwards and observed another individual, later determined to be Respondent, struggling with the individual that had the weapon. She stated, "He tried to hold him by the hand that he was holding the gun with, and was telling him, 'Give me the gun,' but the other person did not give him the weapon." (Tr. 99-105)

According to Ms. Reyes, Respondent and **Smith** then separated, and **Smith** walked away and left the scene. Respondent spoke with Mr. Valdez. Ms. Reyes did not recall if she could hear their conversation or what was said. When Mr. Valdez proceeded to tell Ms. Reyes to call the police, she dialed 911. Respondent said, "Don't call the police because I am the police," and took a silver object out, and quickly showed it to them. Shortly, thereafter, Respondent left the scene while they waited for the police to arrive. After 20 minutes had passed, without a police response, Ms. Reyes called 911 again. (Tr. 105-108)

The audio recordings of Ms. Reyes' two 911 calls were admitted into evidence as Dept. Exs. 7A & 7B. In the first 911 call, Ms. Reyes reported that someone attempted to punch her husband, and one of the men present said that he was the police. She thought that the man who confronted her husband had a gun. When asked if she saw a gun by the 911 operator, Ms. Reyes replied, "I don't really saw because I was inside in the car and they come like they -- he want to hit my husband." The 911 operator asked Ms. Reyes again if she saw a gun, for which she answered, "No, the guy -- the guy, he left." (Dept. Ex. 7A)

In the second 911 call, Ms. Reyes reported that, 30 minutes prior, she called 911 regarding an incident, and she was still waiting for a police response. She told the 911 operator that she was inside the car with her husband when a male confronted her husband with a gun in his hand, repeatedly saying, "Give me my car. That's my car." The 911 operator asked Ms. Reyes, "He has a gun? Like gun to shoot? Like gun?" Ms. Reyes replied, "Yes, yes, gun shoot. Yes." The 911 operator asked, "So one male, Hispanic, uh he has a gun and he showed the gun to you, correct?" Ms. Reyes answered, "Yes, yes." She also reported that a second male told them not to worry, he was a police officer, and they did not have to call the police since he was the police. (Dept. Ex. 7B)

On cross-examination, Ms. Reyes was asked about her official Department interview on October 13, 2019. In the interview, investigators asked her if she saw any weapons, to which Ms. Reyes replied, "No." When asked at trial about why she told investigators that she did not see a weapon, Ms. Reyes explained, "At the moment, I couldn't recall. After I saw the video, it refreshed my recollection." At trial, Ms. Reyes maintained that she had seen a "weapon." (Tr. 118-23)



*Surveillance Video*

Video surveillance footage outside Respondent's sister's home captured the September 13, 2019, incident. The footage is video-only, containing no sound. The following events are depicted:

- 09:37:22 PM: Video begins. A white, four door vehicle is idling in a driveway in front of a building.
- 09:38:02 PM: Respondent walks along the sidewalk. **Smith** walks behind Respondent, talking on his cellphone.
- 09:38:07 PM: Respondent stops walking, just prior to a driveway occupied by an idling car, and opens a gate to a home. He closes the gate without entering.
- 09:38:16 PM: Respondent walks back down the sidewalk and meets **Smith** who is still on his cellphone. They proceed to walk toward the same gate, where they stand and converse with one another.
- 09:39:20 PM: **Smith's** sister exits the gate and speaks with Respondent and **Smith**. **Smith** bends over at his waist with his hands on his knees. Respondent places his hand on **Smith's** back in a comforting manner.
- 09:39:41 PM: **Smith** walks down the sidewalk and off-camera while Respondent and **Smith's** sister continue to converse in front of the gate.
- 09:40:02 PM: **Smith** walks back toward his sister and Respondent, stopping a few paces behind them.
- 09:40:07 PM: Mr. Valdez walks down the sidewalk, passes the rear of the white vehicle, and opens the front driver side door.
- 09:40:10 PM: Respondent continues to converse with **Smith's** sister. As Mr. Valdez attempts to sit down in the driver's seat of the vehicle, **Smith** runs toward the vehicle. **Smith** grabs Mr. Valdez from behind and attempts to pull him out of the car. Mr. Acosta-Pichardo is standing next to the rear passenger side door.
- 09:40:12 PM: Respondent turns his head toward **Smith** and walks toward him.

- 09:40:17 PM: As Respondent approaches, **Smith** pulls a black object from his rear waistband with his right hand. Respondent moves to restrain **Smith**. Respondent holds **Smith's** right arm skyward for approximately ten seconds. Mr. Acosta-Pichardo backs away from the vehicle.
- 09:40:34 PM: Respondent releases **Smith** pushing him away from the vehicle. **Smith** holding a black object in the shape of a pistol, walks away from Respondent.
- 09:40:37 PM: An unidentified civilian passerby on the sidewalk, looking towards **Smith** begins to run away.
- 09:40:38 PM: **Smith** transfers the black object from his right hand to his left hand, appearing to hold the pistol-shaped object by its barrel. **Smith** walks off-camera. Respondent engages in a conversation with Mr. Valdez.
- 09:40:48 PM: Respondent, continuing to converse with Mr. Valdez, reaches for an item in his rear, right pants pocket, holding the item in front of him for three seconds, and returning the item to the same pocket.
- 09:41:05 PM: Ms. Reyes exits the front passenger side of the vehicle, walks around the car, and stands at the rear of the vehicle. An unidentified woman walks toward the vehicle and stands near **Smith's** sister. Respondent turns towards Ms. Reyes and Respondent's sister, points at Ms. Reyes, and turns back to Mr. Valdez.
- 09:41:33 PM: **Smith's** sister opens the gate in front of a residence, enters, closes the gate, and stands behind it. The unidentified woman appears to address Respondent.
- 09:42:09 PM: The unidentified woman disengages herself from the conversation, and walks back to where she was standing before. Ms. Reyes and Mr. Acosta-Pichardo walk toward the front of the vehicle. Respondent continues to converse with Mr. Valdez.
- 09:42:58 PM: Respondent walks away from the vehicle, stands at the gate, and speaks with Mr. Valdez. Mr. Acosta-Pichardo stands at the rear of the vehicle while they converse.
- 09:43:49 PM: Respondent turns with his back to Mr. Valdez and Mr. Acosta-Pichardo to speak with **Smith's** sister, who continues to stand behind the fence gate.



09:44:07 PM: Respondent turns back toward Mr. Valdez and Mr. Acosta-Pichardo and converses with them.

09:45:03 PM: Mr. Acosta-Pichardo walks away. Respondent continues to converse with Mr. Valdez.

09:45:36 PM: Respondent moves to the rear of the vehicle to speak to Mr. Acosta-Pichardo, Ms. Reyes, and another unidentified individual.

09:45:56 PM: Respondent steps back and appears to speak to all of the individuals at the scene.

09:46:27 PM: Respondent hugs [Smith's] sister and proceeds to walk down the sidewalk, away from the scene and off-camera. [Smith's] sister walks away from the gate, towards a residence, and off-camera.

09:46:37 PM: Mr. Valdez, Mr. Acosta-Pichardo, Ms. Reyes, and another individual, stand near the vehicle, and watch Respondent walk away before conversing amongst themselves.

09:47:59 PM: Ms. Reyes engages in a phone call.

09:49:53 PM: Video ends.

(Dept. Exs. 5 & 6; Tr. 36-37, 75-76, 111-12, 174-75)

Additional video footage from Respondent's residence on September 14, 2021, depicts Respondent arriving home at approximately 2:31 a.m. (Dept. Exs. 12A, 12B, and 12C).

#### *Respondent's Testimony*

Respondent testified that on September 13, 2019, he encountered [Smith] as he was leaving the 40<sup>th</sup> Precinct at the end of his tour. Respondent and [Smith] were close friends, previously working as partners for approximately two years. That day, however, they were working different schedules since [Smith] had moved to an administrative position at the precinct. He thought of [Smith] as a "brother" and considered him to be family, but admitted that [Smith] could be "overzealous" at times in the field. (Tr. 257-59, 326, 398, 400-01)

**Smith** wished to show Respondent his new vehicle, a white Subaru WRX, which was parked on the street in front of the precinct. Respondent explained that he entered the passenger side of **Smith's** car, while **Smith** entered the driver's side. **Smith** drove them around for a "little bit" before they travelled to get something to eat at the Gun Hill Tavern, which was approximately one and a half blocks away from the precinct. Since they could not find a place to park upon arrival at the tavern, they remained in the vehicle for approximately one hour, waiting for a parking space to become available. (Tr. 260-62, 397)

When they entered the Gun Hill Tavern, they stood at the bar. They both walked around and mingled, so were not always together. Respondent testified that he did not consume alcohol at the tavern, and he did not observe **Smith** consume any alcohol either. As they were about to eat their food, **Smith** received a phone call from his sister informing him that she was "freaking out," suffering from a severe case of lupus and anxiety. **Smith** asked Respondent if he would accompany him to visit her. (Tr. 262-65, 273, 330-31, 342-43)

After leaving the tavern, approximately two hours after arriving there, Respondent did not have any reason to believe that **Smith** was intoxicated. **Smith** drove them to his sister's residence, which was approximately 15 to 20 minutes away. When they arrived, **Smith** parked his vehicle in someone else's driveway, approximately two or three houses down from his sister's residence. They exited the vehicle, walked to his sister's residence, and spoke with her. (Tr. 264-69, 331, 342, 344)

At some point, **Smith** went to check on his car. After **Smith** returned, Respondent observed that **Smith** "dashed behind" him. He observed **Smith** walk towards a white Acura, which had been idling since their arrival, and reach towards an unknown male in the driver's seat. Respondent did not know why **Smith** attempted to grab the male, nor did he inquire as to



why **Smith** approached the male. Respondent did not know whether or not **Smith** was taking police action, and did not “have time to truly assess what was going on.” He did not observe **Smith's** hands around the driver’s neck because, from his angle, he was only able to see part of **Smith's** arms inside the car. He denied hearing **Smith** say, “Get out of my car.” (Tr. 269-70, 279-81, 345-47, 358-62, 403-04)

Respondent explained that he is trained in Jiu-Jitsu and Aiki-Jujutsu. Moving to intervene in the struggle, he deployed a martial arts “wipe away” maneuver, performing “large circles to distribute weight evenly in order to...control a situation.” Respondent “wiped away [Santiago’s] arm towards the ceiling, and [he] distributed his weight up against the door to the car.” Respondent stated that, while he was performing this maneuver, he did not see anything in **Smith's** hand, as he was “distributing the weight evenly” and looking into the vehicle to ensure that everything was secure. He was unaware that a male individual was standing on the other side of the vehicle by the passenger rear door and that Ms. Reyes was sitting in the front seat. (Tr. 282-85, 284-85)

After Respondent performed the “wipe away” maneuver, he testified that **Smith** asked, “Who’s grabbing me?” Respondent replied, “Relax. It’s Chris. It’s me.” He denied repeatedly telling **Smith** to “give [him] the gun.” He did not observe a gun in **Smith's** hand. Respondent instructed **Smith** to take a walk to give him a “breather.” (Tr. 285-90, 346-47)

Respondent testified that he did not believe Mr. Valdez, the driver of the vehicle, to be a threat after he was out of the car, and proceeded to converse with him in Spanish to ensure that he was okay and to ask him if he knew **Smith**. Mr. Valdez responded, “No...I don’t understand why he grabbed me like that.” Respondent told him that he did not know either, and displayed his shield so that Mr. Valdez would know that he was in “good company.” He did not

intend to show his shield in an official capacity, so he did not provide his name, shield number, business card, or any other identifying information, but he informed Mr. Valdez that “this is not a trickery where, like, he tried to grab you, and I stopped it and I’m trying to, you know, get something out of you.” (Tr. 290-92, 352-53, 404-05)

Respondent explained that he only interacted with Mr. Valdez, and Mr. Valdez never told him that he wanted to call 911. He told Mr. Valdez, “If you want to call 911, you can call 911, and if you do [then] I will stay,” to which Mr. Valdez replied, “No,” repeatedly. Ms. Reyes appeared and started screaming in Spanish. He did not understand what she was saying. Respondent explained that she sounded “aggressive” and acted “animated,” but he told her that he did not want to disrespect Mr. Valdez, her husband, by interacting with her in any way. He never heard Ms. Reyes say that **Smith** had a gun. (Tr. 292-95)

Respondent asked Mr. Valdez, “How do you feel? If you want me to stay, I’ll stay,” and Mr. Valdez replied in Spanish, “No. No, I’m talking to my wife.” Ms. Reyes then yelled at **Smith’s** sister and her husband. When they started yelling back, Respondent told **Smith’s** sister, “Don’t interact with anyone that you see wants to argue with you. If anything, it’s better for you to go inside.” He stated that he was not suggesting that **Smith’s** sister should not talk to the police if they responded to the scene.<sup>3</sup> Respondent denied telling any of the involved parties that he did not want to have to go to court for this incident. After ensuring that Mr. Valdez was okay, Respondent left the scene, walking towards the precinct, which was approximately 30 blocks away. (Tr. 295-99)

After leaving, Respondent attempted to communicate with **Smith** to find out his whereabouts. During a phone call depicted in the phone records at “21:51” hours, he called to see

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<sup>3</sup> Lieutenant Sena testified that **Smith’s** sister was not cooperative or forthcoming with Department investigators. (Tr. 133-34, 150)



if **Smith** was nearby and told him that he was walking back to the precinct. **Smith** replied that he would pick up Respondent on Grand Concourse. They proceeded to stop to eat chicken at a restaurant on Grand Concourse and 166<sup>th</sup> Street, staying for approximately 30 minutes.

Respondent did not ask **Smith** about the incident. (Tr. 299-302, 304, 383, 392; Dept. Ex. 11)

Respondent stated that during another call displayed in the phone records, at “23:32” hours, **Smith** called Respondent to apologize “about everything,” but Respondent “didn’t want to hear about it” because he was angry that **Smith** had “put [him] in a very bad compromising position.” Respondent said, “Well, the way [ **Smith** ] reacted. The way he acted. I mean, not telling me exactly what was going on. He basically left me stuck, kind of, holding an explosive device, and I had to figure out how to detonate it. You know, I didn’t know what was going on.” (Tr. 302-05, 383-84; Dept. Ex. 11)

Respondent testified that he did not recall the context of phone calls between himself and **Smith** on September 14, 2019, at “19:41” hours and “19:46” hours. He denied that the purpose of the phone calls was for **Smith** and himself to “come up with a story.” (Tr. 305-07, 392-95; Dept. Ex. 11)

In connection with his guilty plea as to Specification 2, Respondent explained that he failed to request the response of a patrol supervisor because “there was so much going on” and he “didn’t initially know . . . what to do.” He did not expect the incident to turn into an off-duty incident in an “official capacity.” Respondent admitted that, in hindsight, “I should have called the supervisor, or at least reach[ed] out to the desk sergeant of the precinct of occurrence.” (Tr. 254-55)

In connection with his guilty plea as to Specification 5, Respondent admitted to utilizing a Department parking placard to park at a fire hydrant. He further acknowledged that he also had

an expired inspection certificate on his vehicle. He explained that he made a mistake when he parked his vehicle where he found a spot instead of taking the time to look for a legal parking spot. (Tr. 7, 255-57)

*Specification 1 – Dissuading Individual from Calling Police*

Specification 1 charges Respondent with using his status as a police officer to dissuade an individual known to the Department from calling the police after an off-duty incident.

All three civilian witnesses testified consistently that Respondent attempted to dissuade them from calling 911. Mr. Valdez testified that he told Respondent three times that he wanted to call the police and Respondent replied, “You’re not supposed to call the police. I am the police. I saved your life.” Mr. Acosta-Pichardo testified that he wanted to call police and Respondent said, “No, you’re not going to call the police. I am the police.” He further testified that Respondent said, “I saved your life. You don’t have to call the police.” Ms. Reyes testified that Respondent said, “Don’t call the police because I am the police.” It is not in dispute that Respondent displayed his badge and identified himself as a police officer.

Respondent claimed that among the vehicle occupants he only interacted with Mr. Valdez. Respondent testified that he told Mr. Valdez, “If you want to call 911, you can call 911, and if you do that I will stay,” to which Mr. Valdez replied, “No,” repeatedly. He further testified that before leaving he asked Mr. Valdez, “How do you feel? If you want me to stay, I’ll stay,” and Mr. Valdez replied in Spanish, “No. No, I’m talking to my wife.” Respondent is depicted, on video, speaking with all three of the testifying civilian witnesses at various times over a period of approximately six minutes after the altercation between **Smith** and Mr. Valdez.

The Tribunal found the testimony of Mr. Valdez and Mr. Acosta-Pichardo to be credible. Their statements were consistent, plausible, corroborative of each other, and no evidence was



presented suggesting that either witness had a motive to lie. Although Ms. Reyes's testimony was inconsistent as to whether she saw [Smith] holding a gun, the balance of her testimony was largely corroborative of the testimony of Mr. Valdez and Mr. Acosta-Pichardo, including her testimony that Respondent had attempted to dissuade them from calling police.

Conversely, the Tribunal found Respondent's testimony to be lacking in credibility, implausible, and engineered to be protective of both himself and [Smith]. Respondent would have the Tribunal believe that based on no understanding of why [Smith] had confronted Mr. Valdez and without observing anything in [Smith's] right hand, he moved immediately to physically restrain [Smith], a police officer, using a maneuver that he claimed immobilized him and caused [Smith's] right hand to be pointed skyward for ten seconds. Furthermore, with breakneck speed, Respondent determined that Mr. Valdez was not a threat and turned away from Mr. Valdez to watch [Smith] walk away. Most surprisingly, he testified that after this aggressive encounter he did not seek an explanation from [Smith] as to what had occurred.

Based on the preponderance of the credible evidence, it is likely that Respondent, in order to protect himself and [Smith] from association with [Smith's] criminal conduct, attempted to use his status as a police officer to attempt to dissuade Mr. Valdez, Mr. Acosta-Pichardo, and Ms. Reyes from calling 911. Respondent's conduct not only constitutes conduct prejudicial to the good order of the Department, but is proof, by a preponderance of the evidence, of the crime of Official Misconduct (P.L. 195.00[1]).<sup>4</sup>

Accordingly, Respondent is found Guilty of Specification 1.

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<sup>4</sup> The elements of the crime of Official Misconduct are: (1) a public servant, (2) with intent to obtain a benefit or deprive another person of a benefit, (3) commits an act relating to his office, (4) constituting an unauthorized exercise of his official functions, (5) knowing that such act is unauthorized. (P.L. 195.00)



*Specification 3 – Misleading Statements*

Specification 3 charges Respondent with making misleading statements to Department investigators during his official Department interview. A misleading statement, at the time of the charged misconduct, was defined under Patrol Guide Procedure 203-08 (since moved to Administrative Guide 304-10) as: “A statement that is intended to misdirect the fact finder, and materially alter the narrative by: [a] Intentionally omitting a material fact or facts; [b] Making repeated claims of ‘I do not remember’ or ‘I do not know’ when a reasonable person under similar circumstances would recall, or have been aware of, such material facts; or [c] Altering and/or changing a member’s prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement.”

The misleading statements the Department alleges Respondent made at his February 3, 2021, formal Department interview, are as follows:

<b><u>Alleged Misleading Statement During Respondent’s Official Department Interview</u></b>	<b><u>Respondent’s Trial Testimony</u></b>
When Respondent was asked about what he did for the three hour and 45 minute time period from when he met <b>Smith</b> at his car to the time <b>Smith’s</b> sister called, he stated that he “was just hanging out, catching up. Telling stories about you know what he’s doing in, in admin, what I’m doing with the TO program. You know having a conversation, catching up on family.” When asked whether he went to an eating establishment, Respondent replied, “No.” After being shown <b>Smith’s</b> receipt from Gun Hill Tavern that night and asked if he was at the tavern with <b>Smith</b> Respondent stated, “I mean I don’t remember. I mean I know I was with him in his car and I know that he got a phone call. You know, and I mean there’s just no way of me remembering exactly	Respondent testified that he did not tell the investigators that <b>Smith</b> and he had visited the tavern that night until he was shown the tavern receipt because 17 months had passed since the incident date and he was initially focused on the events of incident at the scene, not the tavern. Respondent explained that the receipt refreshed his memory, and he was not trying to hide the fact that <b>Smith</b> and he were at a bar.  (Tr. 309-11, 334-37)



<p>where we were, you know. I mean I don't, you know I don't want to say that he went and decided to go and have a few, you know."</p> <p>(Dept. Ex. 15B Transcript 1 at 13, ln. 19, through 17, ln. 12)</p>	
<p>After a break in the interview, Respondent remembered visiting the Gun Hill Tavern. Respondent stated that he remembered they went there to eat and that he ordered a seltzer water and a burger, but he did not recall if [Smith] consumed alcohol at the tavern, but that they were not "living it up and having a, a drinks." Respondent surmised that [Smith] may have settled an old tab that night.</p> <p>(Dept. Ex. 15B Transcript 1 at 19, ln. 18, through 22, ln. 17)</p>	<p>At trial, Respondent stated that he and [Smith] spent their time mingling. He explained that they were not always together and he did not see [Smith] consume any alcohol. He stated that while he ordered a burger and a seltzer water, [Smith's] sister called before they had a chance to eat. Respondent again surmised that [Smith] may have been settling an old tab.</p> <p>(Tr. 341-42)</p>
<p>Respondent was asked if he had ever seen the video footage of the incident, for which he replied, "No. I'm, I'm looking at this for the first time." He stated that he did not know if [Smith] had viewed the video. After a break from the interview, Respondent was asked again if this was the first time he had seen the video. Respondent replied, "Looking at it now, I'm seeing that it's possible that this is a, a – I've seen a clip of something similar to this. So I want to say I didn't realize it was the same video. But it is the same." Respondent stated that he believed it was [Smith] who made the video available to him on [Smith's] phone. He stated that [Smith] did not tell him where he retrieved the video, nor did [Smith] point anything out to Respondent as he showed him the video.</p> <p>(Dept. Ex. 15B Transcript 1 at 42, ln. 3, through 45, ln. 1)</p>	<p>Respondent testified that he was not trying to be elusive or evasive in his interview regarding whether or not he had previously viewed the video footage. Respondent initially did not recognize the street image in the video, but, when the video started playing, he realized that the footage was the same clip that [Smith] had received from his sister and played for him. Despite stating that [Smith] had not pointed out anything to him in the video, Respondent admitted that while they were watching the video [Smith] told him, "Oh, that's my cellphone in my hand." Respondent stated that he may not have remembered Officer [Smith] saying this and he was not trying to mislead the investigator in any way.</p> <p>(Tr. 311-12, 362-75, 387-89)</p>

Respondent's statements at his official Department interview were consistently evasive and protective of himself and [Smith]. Only after being presented with a receipt, did



Respondent admit visiting the Gun Hill Tavern with **Smith** admitting that he had been there for hours. Even after being shown the receipt, depicting only alcohol purchases, Respondent denied that either he or **Smith** consumed any alcohol that night. At first, Respondent said he did not recall. Then he opined that **Smith** could have been paying an old tab. Finally, he stated, "that night we didn't have alcohol." Respondent then backtracked and stated, with regard to **Smith's** possible alcohol consumption, "I don't remember." Respondent did remember, however, that he and **Smith** ate there, recalling that he ordered a burger and a seltzer water. (Dept. Ex. 15B Transcript 1 at 21-22)

At trial, Respondent offered a slightly different version of events. Respondent testified that, instead of eating, they mingled around the tavern, explaining that he and **Smith** were not around each other the entire time. While he testified that he ordered a seltzer water and a burger "at the bar" (Tr. 263-64), he remembered that when they were about to eat they had to leave to see **Smith's** sister. Despite admitting that they spent nearly two hours at the Gun Hill Tavern,<sup>5</sup> he maintained that he did not see **Smith** drink any alcohol.

Based on a preponderance of the credible evidence, it is likely that Respondent was being purposely evasive when he told Department investigators that he did not initially recall visiting the Gun Hill Tavern prior to traveling to **Smith's** sister's residence. Furthermore, it is likely that Respondent was aware that **Smith** had consumed alcohol at the Gun Hill Tavern prior to arriving at the incident location. The bar receipt established that **Smith** paid for 6 shots and two beers. Respondent and **Smith** arrived at the incident location fifteen minutes after the Gun

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<sup>5</sup> It is likely, based on Respondent's timeline at his official Department interview and at trial, that he and **Smith** were present at the Gun Hill Tavern for more than two hours. At his official Department interview, it was established that Respondent signed out at 1615 hours and **Smith** signed out at 1635 hours. As Respondent explained at trial, they drove around for "a little bit" and then waited for approximately one hour for a parking space. Even assuming that they entered the Gun Hill Tavern two hours after leaving work, at approximately 1830 hours, it was not until approximately three hours later that **Smith** paid his tab, at 2123 hours.



Hill Tavern receipt was paid. Mr. Valdez testified that he was concerned after the altercation because, in addition to believing a gun was involved, he also “smell[ed] alcohol” (Tr. 72).

**Smith's** behavior at the incident location was also corroborative of alcohol consumption. Despite checking on his car only moments earlier, **Smith** mistook another white car, of a different make and model, parked in a different location, as his car, and continued to operate under this fog of confusion as he attacked an innocent driver in an entirely unreasonable manner.

It is also not credible that Respondent failed to recollect that he had seen a video of the incident prior to his Department interview. Respondent testified that when he was asked whether he had seen the video it was paused at the beginning of the video and he did not immediately recognize it. This description of the presentation of the video at the interview, however, is itself misleading. Prior to being asked if he had seen the video before, Respondent was shown another angle from the incident location which showed the front of Respondent's sister's residence, pointing north (Dept. Ex. 15B Transcript 1 at 27). Respondent watched the video and identified himself and **Smith**. Respondent is then told that they are going to play a video from the same location, pointing south. The very beginning of the video was displayed to show him the angle depicted in the video. Respondent was then told what the video would depict. He is then asked if he has seen the video before, to which Respondent replied, “I'm looking at this for the first time” (Dept. Ex. 15 B Transcript 1 at 42). When Respondent is asked if **Smith** has seen the video, his attorney requested a break. Upon his return from the break, Respondent admitted to having seen “a clip” of the video before. Under these circumstances, Respondent's unambiguous and affirmative statement that he is “looking at this for the first time” is misleading. Even if Respondent was unsure whether it was the same video, Respondent's statement expressed no qualification and, instead, expressed a certainty that Respondent likely knew to be misleading.

Accordingly, I find Respondent Guilty of Specification 3.

*Specification 4 – False Statements*

Specification 4 charges Respondent with making false statements to investigators during his official Department interview. A false statement, at the time of the charged misconduct, was defined by Patrol Guide Procedure 203-08 (since moved to Administrative Guide 304-10) as:

“An intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made..”

The Department alleges that Respondent made false statements when he stated at his official Department interview on February 3, 2021 that: (1) he did not observe a firearm in **Smith's** hand (Tr. 12; Dept. Ex. 15B Transcript 1 at 37, 51-52, 65, 80; Dept. Ex. 15B Transcript 2 at 13, 17), and (2) he did not attempt to dissuade Mr. Valdez from calling 911 (Tr. 12; Dept. Ex. 15B Transcript 1 at 56, 62). Respondent reaffirmed these denials during his trial testimony (Tr. 284, 286, 289, 313-23, 408, 410-11, 378-79, 408). It is not reasonably in dispute that these statements are material to the investigation. It is also not reasonably in dispute that Respondent intentionally made these statements. Rather, at issue, is whether these statements were untrue and, if so, whether Respondent knew them to be untrue at the time he made them.

Observation of Firearm

All three testifying civilian witnesses stated that Respondent ordered **Smith** to “Give me the gun.” Mr. Valdez testified that **Smith** responded, “This is my fucking gun. I’m not going to give it to you.” Mr. Acosta-Pichardo testified that **Smith** responded, “No, this is my gun, this is my gun,” and Respondent stated “No, give me the damn gun,” grabbing **Smith** by the wrist.



Both Mr. Valdez and Mr. Acosta-Pichardo, whose testimony the Tribunal credits,<sup>6</sup> admitted that they cannot say for sure that they saw a gun. Rather, Mr. Acosta-Pichardo stated that he saw **Smith** holding “something like black and square,” assuming that it was a gun when Respondent stated, “Give me the gun.” Mr. Valdez stated that he saw **Smith** “carrying something that looked like a gun” as **Smith** walked away.

The video evidence, although capturing no sound, captures the reactions of the individuals on scene. Immediately after **Smith** appears to remove an item from his waist-area with his right hand, Respondent moves to grab **Smith's** right wrist and point his arm skyward. Simultaneously, Mr. Acosta-Pichardo, backs away from the car as if in danger, keeping his eyes fixed in the opposite direction of his movement. **Smith's** sister moves towards **Smith**. As **Smith** walks away, a civilian passerby who looks at him begins to run away. The video further corroborates that **Smith** is holding a gun-shaped object.

Respondent denied that either he or **Smith** made any statements regarding a “gun.” According to Respondent, the only statement he remembered **Smith** making was “Who’s grabbing me? Who’s grabbing me?”, which Respondent testified **Smith** said after he had performed the “wipe away” maneuver on **Smith**. Respondent testified that he responded, “Relax. It’s me Chris. It’s me.”

At trial, Respondent attempted to convince the Tribunal that he had raised **Smith's** arm skyward because he was performing a Jiu-Jitsu maneuver called a “wipe away” to immobilize him. He demonstrated the maneuver in the courtroom. The move he demonstrated in the

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<sup>6</sup> The Tribunal does not credit the testimony of Ms. Reyes as to the presence of a gun, as she provided inconsistent and irreconcilable statements concerning whether she had observed a firearm. Given Ms. Reyes’s likely viewing angle, as depicted in the video, it is unlikely that she saw the firearm. It is more likely that she surmised that **Smith** had a firearm based on statements made at the scene, including the statement, consistently testified to by all three testifying civilian witnesses, “Give me the gun.”

courtroom, using a court officer as a hypothetical opponent, involved the placement of his right foot against the left foot of the court officer, extending his left arm in a manner that caused his elbow to be pressed up against the elbow area of the court officer's right arm, and positioning his body at an angle such that his right shoulder is used to push the court officer back, causing the court officer's body to be extended in a diagonal line from left foot to right arm. This maneuver was effective in the courtroom at immobilizing the court officer.

This "wipe away" maneuver, however, is not depicted in the video evidence (Dept. Ex. 5). Rather, Respondent, on video, is depicted standing to the side of **Smith** and holding **Smith's** right arm by the wrist. Respondent does not appear to be distributing his body weight against the body of **Smith** in the same manner he demonstrated in the courtroom. Accordingly, the Tribunal does not credit Respondent's attempt to characterize a straight forward effort to control **Smith's** hand via a wrist-grab as a sophisticated Jiu-Jitsu maneuver used to immobilize an opponent's body.

Respondent further claimed that, as he raised **Smith's** hand skyward, his attention was focused on the interior of the vehicle. While this may be true for a portion of the encounter, Respondent is clearly depicted on video looking directly at **Smith** before he released him and, as he released him, turning to watch **Smith** walk away. Accordingly, Respondent had ample opportunity to observe the object in **Smith's** hand at close range.

The testimony of Mr. Valdez and Mr. Acosta-Pichardo that they could not identify the object in **Smith's** hand with certainty, finds support in the video evidence. While **Smith** attempts to remove Mr. Valdez from the driver's seat, he is not successful. Accordingly, Mr. Valdez remains in the driver's seat during the physical interaction between Respondent and **Smith**. Based on the video evidence, it is credible that based on Mr. Valdez's viewing angle,



he would not likely have had a clear view of the object in [Smith's] hand. As Mr. Valdez exits the vehicle, however, the video corroborates that he looked at [Smith] and may have been able to see the object in [Smith's] hand briefly as [Smith] is walking away. The video further corroborates that Mr. Acosta-Pichardo, who was on the other side of the vehicle and had backed away by the time the object was pointed skyward, would have had a clear viewing angle, but may have had difficulty identifying the object in [Smith's] hand due to the significant distance between himself and [Smith]

Based on a preponderance of the credible evidence, including Respondent's statement "give me the gun," heard by three eyewitnesses, the close proximity of Respondent to [Smith] at the time, Respondent's behavior of moving to control [Smith's] hand by raising it skyward, and video evidence that corroborates a gun-shaped object in [Smith's] hand, the Tribunal finds that it is likely that Respondent observed [Smith] brandish an object he believed to be a gun.

#### Attempts to Avoid 911 Call

All three testifying civilians stated that Respondent attempted to dissuade them from calling 911. Mr. Valdez testified that after telling Respondent three times he wanted to call 911, Respondent showed him a silver object resembling a shield and said, "You're not supposed to call the police. I am the police. I saved your life." Mr. Acosta-Pichardo testified that he heard Respondent say, "No, you're not going to call the police. I am the police" and saw him remove a shield. He further heard, Respondent reply, "I saved your life. You don't have to call the police." Ms. Reyes heard Respondent say, "Don't call the police because I am the police," and saw Respondent remove a silver object. (Dept. Ex. 15B Transcript I at 59)

Respondent denied making any statements to dissuade individuals from calling police. He further denied that anyone told him that they wanted to call 911. Respondent claimed that he

only spoke to Mr. Valdez and did not interact with the “other two.” He further claimed that he said to Mr. Valdez, “If you want to call 911, you can call 911, and if you do [] I will stay.” Before leaving, he claimed he asked Mr. Valdez, “How do you feel? If you want me to stay, I’ll stay.” At his official Department interview, Respondent claimed that he did not call 911 because he did not believe it to be an off-duty incident.

The video evidence does not corroborate Respondent’s version of events. Respondent remained on scene for six minutes after **Smith** left. Contrary to Respondent’s assertion that he only interacted with Mr. Valdez, Respondent is depicted on video speaking to multiple individuals both separately and together, including Mr. Acosta-Pichardo and Ms. Reyes. Based on Respondent’s hand movements and the attention directed at him in the video evidence, Respondent appears to be doing a majority of the speaking.

The statements of the testifying civilian witnesses that Respondent attempted to dissuade them from calling 911 are corroborative of one another. They are also consistent with Respondent’s behavior at his official Department interview, and at trial, wherein he persisted in delivering a narrative that was self-serving and protective of **Smith**. No evidence was presented to the Tribunal that the testifying civilian witnesses had a motive to lie or would benefit in any way from testifying against Respondent. Accordingly, the Tribunal finds, based on a preponderance of the credible evidence, that Respondent made statements to the testifying civilian witnesses urging them not to call 911.

Based on the above findings, the Tribunal further finds that Respondent’s intentional statements to the contrary were materially false and he knew them to be false at the time they were made. Respondent is, therefore, found Guilty of Specification 4.



## PENALTY

In order to determine an appropriate penalty, this Tribunal, guided by the Department's Disciplinary System Penalty Guidelines, considered all relevant facts and circumstances, including potential aggravating and mitigating factors established in the record. Respondent's employment history was also examined (*see* 38 RCNY 15-07). Information from Respondent's personnel record that was considered in making this penalty recommendation is contained in an attached memorandum.

Respondent, who was appointed to the Department on July 1, 2004, has been found guilty of using his status as a police officer to dissuade civilians from calling 911 and making misleading and false statements at his official Department interview. Respondent also pled guilty to failing to request the response of a patrol supervisor and utilizing his Department parking plaque to park illegally. The Department Advocate has recommended Termination. The Tribunal agrees.

Respondent's conduct at his official Department interview, and at his Department trial, exhibited a brazen disregard for the truth and a profound disrespect for the role of a police officer. False statements and false testimony are antithetical and repugnant to the Department's principles and the purposes of law enforcement. The Department has long sought to condemn dishonest behavior amongst its members and has long apprised its members that the intentional making of a false official statement "will result in separation from the Department absent extraordinary circumstances" (P.G. 203-08; A.G. 304-10).

Respondent's decision to continue to commit to his false narrative before this Tribunal was a tragic one. Respondent, by all accounts, has had a successful career, with no prior formal

disciplinary history and high evaluation ratings.<sup>7</sup> His initial behavior of springing into action to restrain **Smith** on September 13, 2019, exemplified proper police intuition and initiative. Indeed, had Respondent testified truthfully at trial, even given his prior false statements, the Tribunal could have been moved to recommend a mitigated penalty. Yet, Respondent, even after Police Officer **Smith** had retired from the Department, chose to continue to lie instead of admitting his malfeasance. Under these circumstances, a mitigated penalty is inappropriate. The presumptive penalty for a false official statement is Termination. That is the appropriate penalty here.

For the foregoing reasons, the Tribunal recommends that Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Josh Kleiman  
Assistant Deputy Commissioner Trials



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<sup>7</sup> At trial, Respondent called three witnesses (Lieutenant Derrick Bradley, Lieutenant Lauren Diaz, and Captain Isaac Soberal) as character witnesses, all of whom testified that Respondent was a highly competent officer and an asset to the Department who should not be terminated.





## POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials  
To: Police Commissioner  
Subject: SUMMARY OF EMPLOYMENT RECORD  
POLICE OFFICER CHRISTOPHER CAMPBELL  
TAX REGISTRY NO. 934569  
DISCIPLINARY CASE NO. 2021-23052

Respondent was appointed to the Department on July 1, 2004. On his three most recent annual performance evaluations, he received overall ratings of “Exceeds Expectations” for 2017, 2018, and 2019. He has been awarded one medal each for Excellent Police Duty and Meritorious Police Duty.

Respondent has no disciplinary record. In connection with the instant matter, Respondent was suspended from February 3, 2021, to March 4, 2021. He was placed on Level 1 Discipline Monitoring on September 19, 2019, which was upgraded to Level 2 Discipline Monitoring on May 26, 2021. Monitoring remains ongoing.

For your consideration.

Josh Kleiman  
Assistant Deputy Commissioner Trials